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August 8, 2017

VIA ECF

Hon. J. Paul Oetken
United States District Judge
Thurgood Marshall
United States Courthouse
40 Foley Square
New York, NY 10007

Re: *N.Y. Times Co. v. FBI*, No. 17-cv-4558(JPO)

Dear Judge Oetken:

I write on behalf of both Plaintiffs and Defendant to propose a schedule for the above-referenced action in advance of the initial conference scheduled for August 11, 2017. *See* Court's Order of July 27, 2017 (ECF No. 9).

This matter, brought under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, arises from a request made by Plaintiffs The New York Times Company and Charlie Savage ("The Times") for records possessed by Defendant Federal Bureau of Investigation ("FBI"). The Times's request sought "all memos, e-mails, or other documents by James Comey discussing or memorializing conversations with Donald Trump." *See* Compl. ¶ 8 (ECF No. 1).

The FBI has identified the responsive documents and has withheld them in full under FOIA Exemption 7(A), which protects law enforcement records for which disclosure could reasonably be expected to interfere with enforcement proceedings. The FBI is still processing the records for the purpose of identifying other applicable exemptions. The Times will argue, among other things, that various official disclosures have waived the FOIA exemptions and that the disclosure sought here would not interfere with any law enforcement proceedings. These same materials are the subject of a separate consolidated action now pending in the District Court for the District of Columbia. *Cable News Network, Inc. v. FBI*, No. 17-cv-1167(JEB) (D.D.C.).

The parties have conferred about a schedule for this litigation. Because this is a FOIA case, the parties believe that the standard case management plan is inapplicable. As is customary in a

FOIA case, neither side is seeking discovery. Instead, the parties respectfully propose that the Court order the following briefing schedule for cross-motions for summary judgment, which includes time for the FBI to complete its processing of the requested records:

October 13, 2017: The FBI's motion for summary judgment

November 3, 2017: The Times's opposition and cross-motion for summary judgment

November 17, 2017: The FBI's reply and opposition

December 1, 2017: The Times's reply

The parties have no other outstanding issues to present to the Court. If the proposed schedule is satisfactory, the parties respectfully request that the Court adjourn the August 11 conference.

We thank the Court for its consideration.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'D E McCraw', with a long horizontal stroke extending to the right.

David E. McCraw

Cc: Jeannette Vargas, AUSA, *Counsel for Defendant* (via ECF)